

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CENTRAL KENTUCKY CELLULAR	)	
TELEPHONE COMPANY FOR ISSUANCE OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO CONSTRUCT AN ADDITIONAL CELL	)	CASE NO.
FACILITY IN THE LOUISVILLE, KENTUCKY	)	92-176
METROPOLITAN STATISTICAL AREA (ST. MATTHEWS	)	
CELL FACILITY)	)	

O R D E R

On April 24, 1992, Cellular One/Central Kentucky Cellular ("Central Kentucky Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower in the Louisville Metropolitan Statistical Area ("Louisville MSA"). The Louisville MSA includes Bullitt, Jefferson, and Oldham counties in Kentucky. Central Kentucky Cellular has requested authorization to construct a cell site in Jefferson County, Kentucky. Central Kentucky Cellular was previously granted authority to operate a cellular radio telecommunications system in the Louisville MSA in Case No. 10169.<sup>1</sup>

The proposed cell site consists of a self-supporting antenna tower, with attached antennas, not to exceed 198 feet in height and

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<sup>1</sup> Case No. 10169, The Application of Louisville Cellular Telephone Company, Bluegrass Cellular Telephone Partners and Central Kentucky Cellular Telephone Company for Approval of the Transfer of Ownership and Control of the Public Service Businesses of Louisville Cellular Telephone Company and Bluegrass Cellular Telephone Partners to Central Kentucky Cellular Telephone Company.

a communications equipment shelter to be located at 245 Hubbards Lane, Louisville, Jefferson County, Kentucky (the "St. Matthews cell site"). The coordinates for the St. Matthews cell site are North Latitude 38° 15' 26" by West Longitude 85° 38' 15".

Central Kentucky Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the St. Matthews cell site. Based upon the application, the tower and foundation design appear to meet the criteria of the Building Officials and Code Administrators International, Inc. (BOCA) National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the St. Matthews cell site's construction is exempt from local zoning ordinances. However, Central Kentucky Cellular has notified the Louisville and Jefferson County Planning Commission of the proposed construction. Central Kentucky Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the St. Matthews cell site. Both applications are still pending. No further approvals from the Federal Communications Commission are required for the construction of the cell site.

Central Kentucky Cellular has filed notices verifying that each property owner and/or resident within 500 feet of the St. Matthews cell site has been notified of the pending construction. The notice solicited any comments and informed the property owner and or resident of their right to intervene. Several protest

letters were received. Kevin Johnson and Lottie Kazunas, property owners within 500 feet of the proposed tower, requested and were granted full intervention in this case. A hearing was held at the Commission's offices in Frankfort, Kentucky on July 16, 1992.

During the hearing the intervenors in this case questioned the necessity of the St. Matthews cell site and the potentially adverse impact it may have on the nearby residential area, including property values. Central Kentucky Cellular stated that an additional cell site was needed in the St. Matthews area due to the inadequacy of its existing facility to handle the ever increasing number of calls and to reduce lost calls. Other potential locations for the cell site were investigated but were not available for sale or lease. After determining the availability of the St. Matthews cell site, Central Kentucky Cellular considered the industrial zoning of the site, the industrial uses of the site which predate the construction of the adjacent residential area, and the existing cellular telecommunications tower of a competitor located on the site. Based on these factors Central Kentucky Cellular concluded that the proposed construction would conform to the uses already established in the area and be less intrusive compared with the other residentially and commercially zoned sites previously investigated.

Central Kentucky Cellular stated that locating the proposed antennas on the existing cellular telecommunications tower would require a substantial increase in the existing tower's height and that no other cell sites in its cellular system could provide the

quality of coverage required for uninterrupted calls. Central Kentucky Cellular attempted to locate the cell site on the same industrial property but further from the residential area, however, the property owner would not agree due to access and parking required for the other tenants on the property.

Subsequent to the hearing, the Mayor of the city of St. Matthews filed a protest letter alleging that the construction of a cellular tower at the proposed location will violate the city's land use legislation. The Commission then ordered Central Kentucky Cellular to address the city's allegation. By letter dated October 1, 1992, Central Kentucky Cellular responded by citing the city's adoption of the Jefferson County Zoning District Regulations which expressly authorize communication towers in industrial zoned areas.

Central Kentucky Cellular has chosen a cell site located in an industrial area that includes several industrial and commercial use businesses such as a railway that is active daily and an existing cellular telecommunications tower. Central Kentucky Cellular has shown a concern for property owners and residents within the vicinity of cellular towers by realizing that such towers are typically less objectionable in industrial use areas as opposed to residential and even some commercial areas. The construction of this or any similar tower will of course have some impact on the surrounding area, regardless of its location. However, considering the dense residential community in the St. Matthews area and the dearth of industrial sites, the location proposed by Central

Kentucky Cellular appears to minimize any such impact on the area as a whole.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Central Kentucky Cellular has a need for an additional cell site and should be granted a Certificate of Public Convenience and Necessity to construct and operate the St. Matthews cell site in the Louisville MSA under its previously approved tariff.

IT IS THEREFORE ORDERED that:

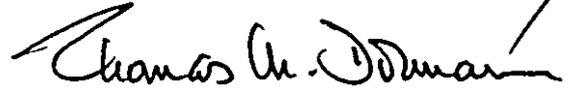
1. Central Kentucky Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the St. Matthews cell site which consists of a self-supporting antenna tower, with attached antennas, not to exceed 198 feet in height to be located at 245 Hubbards Lane, Louisville, Jefferson County, Kentucky. The coordinates for the St. Matthews cell site are North Latitude 38° 15' 26" by West Longitude 85° 38' 15".

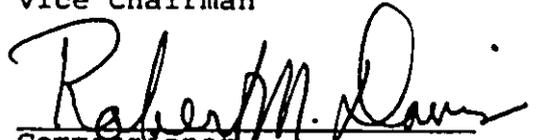
2. Central Kentucky Cellular shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the St. Matthews cell site construction, within 10 days of receiving these decisions.

Done at Frankfort, Kentucky, this 9th day of October, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director